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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,368	06/09/2006	Jens Fiedler	071308.0727	5736

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PATENT DEPARTMENT  
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EXAMINER
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MAWARI, REDHWAN K

ART UNIT	PAPER NUMBER
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3663

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,368	<b>Applicant(s)</b> FIEDLER ET AL.	
	<b>Examiner</b> REDHWAN MAWARI	<b>Art Unit</b> 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

This Office Action is responsive to Applicant's amendment and request for reconsideration of application 10/596,368 filed on February 02 2009.

The amendment contains amended claims: 6-10.

Applicant's request for reconsideration of the § 101 rejection of the last Office action is persuasive and, therefore, the § 101 rejection is withdrawn.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlffmann (EP1 002 709 A2) in view of Streiter (6,000,702) and further in view of Fukada (6,502,023).

Consider claim 1, Schlffmann discloses an arrangement for determining a relative movement of a chassis and a vehicle body of a wheeled vehicle (20) , said vehicle body being movably connected to the chassis,

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- a measuring entity which is arranged or can be arranged in the wheeled vehicle wherein the measuring entity is configured to measure three respectively perpendicular linear accelerations of the wheeled vehicle and at least two rotational speeds, each relating to a rotational movement or a component of a rotational movement about a coordinate axis of the wheeled vehicle, wherein the at least two coordinate axes run perpendicularly to each other ([paragraph 0013]), and

- an analysis entity which is combined with the measuring entity and is operable to determine a momentary movement position of the relative movement using the three linear accelerations and the at least two rotational speeds ([paragraph 0015]), and (col. 4, lines 34-49)

wherein the analysis entity includes comprises a calculating unit which is operable to calculate a plurality of momentary movement positions using the at least two rotational speeds and the three linear accelerations (col. 6, lines 14-19); however Schlffmann doesn't disclose wherein each of the movement positions is a measure for a distance between the vehicle body and at least one wheel of the chassis

Streiter teaches wherein each of the movement positions is a measure for a distance between the vehicle body and at least one wheel of the chassis (col. 3, lines 41-59). Furthermore, the examiner introduces another reference for more clarification (Fukada col. 1, 30-47); providing the distances as input variables of

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systems for at least one of adjusting and monitoring properties of the wheeled vehicles (see at least Streiter abstract).

Accordingly, it would have been obvious to an ordinary skilled person in the art at the time of invention to combine the invention of Streiter and Fukada into the invention of Schlffmann for the purpose of enhancing the accuracy determining the dynamic movement of the vehicle and hence increasing the accuracy of controlling said movements.

Consider claim 2, Schlffmann further discloses wherein the measuring entity has acceleration sensors for measuring the linear accelerations and rotational speed sensors for measuring the rotational speeds, and wherein the acceleration sensors and the rotational speed sensors are parts of a preprepared hardware unit which is configured for installation in the wheeled vehicle (FIG. 3A).

Consider claim 3, Schlffmann further discloses wherein the measuring entity is configured such that the three linear accelerations can be measured as measured variables which are linearly independent of each other (FIG. 3A).

Consider claim 4, Schlffmann further discloses wherein the measuring entity is configured such that the at least two coordinate axes run perpendicularly to each other as a pair in each case (FIG. 3A).

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Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlffmann (EP1 002 709 A2) in view of Streiter (6,000,702), further in view of Fukada (6,502,023) and further in view of Van De Walle (5,670,872).

Consider claim 5, Van De Walle teaches wherein the analysis entity includes a calculating unit which is configured to calculate the momentary movement position with reference to a spring suspension, in particular a spring suspension which is moderated, between at least one of the wheels of the wheeled vehicle and a vehicle body (abstract).

Accordingly, it would have been obvious to an ordinary skilled person in the art at the time of invention to combine the invention of Streiter and Fukada and Van De Walle into the invention of Schlffmann for the purpose of enhancing the accuracy determining the dynamic movement of the vehicle and hence increasing the accuracy of controlling said movements.

Consider claim 6, claim 6 is rejected using the same art and rationale used to reject claim 1.

Consider claim 7, claim 7 is rejected using the same art and rationale used to reject claim 2.

Consider claim 8, claim 8 is rejected using the same art and rationale used to reject claim 3.

Consider claim 9, claim 9 is rejected using the same art and rationale used to reject claim 4.

Consider claim 10, claim 10 is rejected using the same art and rationale used to reject claim 5.

Consider claims 11-16, claims 11-16 are rejected using the same art and rationale used to reject claims 1-5.

### ***Response to Arguments***

*Applicant's arguments have been fully considered but are not persuasive. In particular the applicant argues, A) the cited prior art does not disclose or suggest the relative movement between the vehicle body and the chassis are determined based on three accelerations and at least two rotational speeds B) applicant appears to be arguing that there is no reason or suggestion to combine prior art of record.*

In response to A) examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Given the broadest interpretation, as claimed it is the examiner's position, the reference of record teaches what he is argued. As noted in paragraph [0013], it is clear to the examiner that this passage supports the argued limitation. Schlffmann shows three accelerometers and at least two rotational sensors for performing intended sensing operations. Furthermore, as shown in paragraph 0015, the controller or processor determines the relative movements of the vehicle based on the inputs from said sensors. In addition, Schlffmann discloses in paragraph 0018 accelerometers in combination with rotational

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sensors are combined to estimate the altitude angle which is construed as relative movement. For more clarification, the examiner introduces a secondary reference to teach the relative movement is the distance between the vehicle body with respect to the wheels chassis. Streiter teaches using path sensors as well as acceleration sensors to measure the relative distance along with other sensors for example rotational sensors (see at least col. 3, lines 41-49). Furthermore, Streiter teaches using three acceleration sensors along with the rotational sensors to determine the relative movement of the vehicle body. The acceleration sensors are combined with each other based on their relative distance (see at least col. 6, lines 32-56). In view of the above, it is the examiner position what **is claimed** and argued are taught by the reference since the applicant doesn't explicitly define how the three acceleration sensors along with the two rotational sensors are used to calculate the relative distance. Applicant is reminded that the claim is interpreted in light of the specification; however limitation from the specification can not be read into the claim.

**Note:** in regards to claims 1, 2, 11, and 12, the statements of intended use or field of use,[a]"operable to" or "unit for" clauses, b) "wherein" clauses, or c) "whereby"] clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.



See MPEP § 2114 which states:

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

In response to B) applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been extremely advantageous to combine the prior art of record for the purposes stated in the detailed action above, wherein cited reference are trying to determining the relative movement of the vehicle body using acceleration sensors and rotational sensors. In addition, KSR forecloses the argument that a **specific** teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex parte Smith*, --USPQ2d ,slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing *KSR*, USPQ2d at 1396) (available at

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<https://www.uspto.gov/web/offices/dcom/bpai/prec/fd071923.pdf>). Therefore the combination of the prior art of record still meets the scope of the limitations as currently claimed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Redhwan Mawari whose telephone number is 571 270 1535. The examiner can normally be reached on 7:30 AM - 5PM Mon-Fri Eastern Alt Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached at 571-272 6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

05/11/2009

/R. M./  
Examiner, Art Unit 3663

/Tuan C To/  
Primary Examiner  
May 26, 2009